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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/249,229	02/11/1999	GREGORY L. SLAUGHTER	SUN1P209/P36	9705

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BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

EXAMINER	
COURTENAY III, ST JOHN	
ART UNIT	PAPER NUMBER
2126	15

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	**Application No.** 09/249,229	**Applicant(s)** SLAUGHTER ET AL.	
	Examiner St. John Courtenay III	**Art Unit** 2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 January 2004*.

2a)□ This action is **FINAL**. 2b)☒ This action is non-final.

3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)□ Claim(s) ____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)□ Claim(s) _____ is/are objected to.

8)□ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)□ The specification is objected to by the Examiner.

10)□ The drawing(s) filed on _____ is/are: a)□ accepted or b)□ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)□ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)□ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)□ All b)□ Some * c)□ None of:

1.□ Certified copies of the priority documents have been received.

2.□ Certified copies of the priority documents have been received in Application No. _____.

3.□ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

ST. JOHN COURTENAY III
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) □ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) □ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) □ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) □ Notice of Informal Patent Application (PTO-152)

6) □ Other: _____.

Detailed Action

New grounds of rejection are set forth below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 16 & 23 are rejected under 35 U.S.C. § 102(e) as being anticipated by **Slaughter et al.** (U.S. Patent 6,202,147).

U.S. Patent 6,202,147 lists Jeffrey A. Schmidt as an additional inventor with respect to the three inventors listed on the instant application, therefore U.S. Patent 6,202,147 constitutes a different inventive entity that can be used to show anticipation under 35 U.S.C. §102.

As per independent claim 1:
Slaughter teaches a software object included in a computer system, comprising:

- a platform dependent method [e.g., see "DMA native methods 234 and memory native methods 236" referenced by platform manager 302 (that references real memory), col. 5, line 35, and associated discussion col. 5, beginning line 16]; and

- a platform independent wrapper [see platform independent bus managers 222, col. 5, line 27] arranged to call the platform dependent method [i.e. the call from the platform independent bus manager to the platform dependent platform manager 302 that allocates real memory addresses, see col. 8, lines 29-34], wherein a platform independent object [the platform independent device driver, col. 5, lines 47, 48] accesses the platform dependent method by calling the wrapper (bus manager 1 at 304 through bus manager n 310, col. 5, line 33), wherein the wrapper then calls the platform dependent method [by calling the platform-dependent platform manager 302 that allocates real memory addresses; see also "DMA native methods 234 and memory native methods 236" and associated discussion col. 5, beginning line 16]. Slaughter teaches the use of the platform independent Java programming language that provides a inherently provides a wrapper function when used to call code that references platform specific real memory address, such as done by platform manager 302, col. 6, lines 1-2; col. 8, line 65].

As per independent claim 10:
Slaughter teaches a computer-implemented method of accessing a platform dependent method by a platform independent object in a computer system, the computer system having an encapsulation object, the method comprising:

- calling a platform independent wrapper [see where platform independent device driver (col. 5, line 480) calls a single bus manager (i.e., the platform independent wrapper) that has a platform independent abstract address space, col. 5, lines 64, 65] by the platform independent object [e.g., see platform independent device driver col. 5, line 48]; and

- calling the method by the wrapper wherein the wrapper is included in the encapsulation object [See where the platform manager 302 is called by the platform independent bus manager –platform manager 302 references real address spaces so it is not platform independent, col. 5, line 55; bus manager 1 at 304 through bus manager n 310 function as "wrappers", col. 5, line 33].

As per independent claim 23:
Slaughter teaches a native encapsulation object included in a computer system, the native encapsulation object comprising:

- a plurality of device drivers [see platform independent device drivers, col. 5, lines 47, 48]; and

- a plurality of wrappers arranged to call an associated device driver of the plurality of device drivers, wherein a platform independent object [see platform independent bus managers 222, col. 5, line 27] accesses an associated device driver by calling one of the plurality of wrappers, wherein the wrapper then calls the associated device driver [see also MemoryDescriptor object discussion, col. 6, line 60].

As per dependent claim 2:
Slaughter teaches that substantially the only operation performed by the wrapper is to act as an intermediary between the platform independent object and the native method to facilitate calling the platform dependent native method from the platform independent object [See where the platform manager 302 is called by the platform independent bus manager -platform manager 302 references real address spaces so it is not platform independent, col. 5, line 55; bus manager 1 at 304 through bus manager n 310 function as "wrappers", col. 5, line 33].

As per dependent claim 3:

Slaughter teaches the software object is one of a plurality of software objects included in the computer system [see object discussion col. 6, beginning line 56, and cont'd col. 7.

As per dependent claim 4:
Slaughter teaches the platform dependent method is one of a plurality of platform dependent methods [col. 7, lines 3-6].

As per dependent claim 5:
Slaughter teaches the wrapper is one of a plurality of wrappers each being arranged to call an associated one of the plurality of platform dependent methods [see function of platform independent bus manager 1 at 304 through bus manager n 310 that function as "wrappers", col. 5, line 33].

As per dependent claim 6:
Slaughter teaches a first software object includes a first wrapper and an associated first method designed to run on a first platform [see function of platform independent bus manager 1 at 304 through bus manager n 310 that function as "wrappers", col. 5, line 33; see where the platform manager 302 is called by the platform independent bus manager –platform manager 302 references real address spaces so it is not platform independent, col. 5, line 55].

As per dependent claim 7:
Slaughter inherently teaches a second software object includes a second wrapper and an associated second method designed to run on a second platform that is different than the first platform [Slaughter teaches the use of platform independent objects that by definition are executable on more than one platform].

As per dependent claim 8:
Slaughter teaches the wrapper is a Java wrapper [col. 6, lines 1].

As per dependent claim 9:
Slaughter teaches the platform independent object is a Java device driver [col. 5, lines 59].

As per dependent claim 11:
Slaughter teaches substantially the only operation performed by the wrapper is to act as an intermediary between the platform independent object and the method so as to facilitate calling the platform dependent method from the platform independent object [see function of platform independent bus manager 1 at 304 through bus manager n 310 that function as "wrappers", col. 5, line 33].

As per dependent claim 12:
Slaughter teaches the encapsulation object is one of a plurality of encapsulation objects included in the computer system, and wherein the wrapper is one of a plurality of wrappers included in the computer system, and wherein the method is one of a plurality of methods included in the computer system [see function of platform independent bus manager 1 at 304 through bus manager n 310 that function as "wrappers", col. 5, line 33].

As per dependent claim 13:
Slaughter teaches the computer system includes a first encapsulation object containing a first wrapper and an associated first method, wherein the first method is designed to run on a first platform [See where the platform manager 302 is called by the platform independent bus manager –platform manager 302 references real address spaces so it is not platform independent, col. 5, line 55; bus manager 1 at 304 through bus manager n 310 function as "wrappers", col. 5, line 33].

As per dependent claim 14:

Slaughter teaches the computer system includes a second encapsulation object containing a second wrapper and an associated second method that is designed to run on a second platform that is different than the first platform [Slaughter teaches the use of platform independent objects that by definition are executable on more than one platform; see also where the platform manager 302 is called by the platform independent bus manager -platform manager 302 references real address spaces so it is not platform independent, col. 5, line 55; bus manager 1 at 304 through bus manager n 310 function as "wrappers", col. 5, line 33].

As per dependent claim 15:
Slaughter teaches the platform independent object accesses the first method by calling the first wrapper that, in turn, calls the first method [see where platform manager 302 is called by the platform independent bus manager -platform manager 302 references real address spaces so it is not platform independent, col. 5, line 55].

As per dependent claim 16:
Slaughter teaches the platform independent object accesses the second method by calling the second wrapper that, in turn, calls the second method [Slaughter teaches the use of platform independent objects that by definition are executable on more than one platform; see also where the platform manager 302 is called by the platform independent bus manager -platform manager 302 references real address spaces so it is not platform independent, col. 5, line 55; bus manager 1 at 304 through bus manager n 310 function as "wrappers", col. 5, line 33].

Allowable Subject Matter:

Claims 17-22 appear to be allowable over the prior art of record, subject to the results of a final search, and the submission of a terminal disclaimer, as described below.

Obviousness-type double patenting Rejection:

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington,418 F.2d 528, 163 USPQ 644 (CCPA 1969).

> "Double patenting rejection of application claims was fully justified where applicant, in course of expanding first application to disclose enough more by way of details, alternatives, and additional uses to support broad, dominating, generic claims in later applications, has disclosed no additional invention or discovery other than that what was already claimed in patent on first application; there is significant difference between justifying broadening of claims and disclosing additional inventions." In re Van Ornum, 214 USPQ 761 (CCPA 1982).

Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 16 of copending application 09/048,333, now U.S. Patent 6,594,708 (Slaughter et al.).

Although the conflicting claims are not identical, they are not patentably distinct from each other because of corresponding language that recites virtually all of the same elements and functions claimed in the previously patented invention, e.g., platform independent code, platform dependent code, java, objects, etc.

The claimed differences would be obvious to a programmer of ordinary skill because the instant claims are merely broader and/or alternate variations of the claims recited in the copending application.

Terminal Disclaimer

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b). Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

For post GATT applications, (i.e., applications filed after June 8, 1995), the rule § 1.321 (4) (c) (3) requires a provision that must be included. The following requirement is UNCHANGED by GATT and therefore a terminal disclaimer is required for the instant application, i.e., *"shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection."*

Prior Art not relied upon:

Please refer to the references listed on the attached PTO-892 which are not relied upon in the claim rejections detailed above.

How to Contact the Examiner:

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **St. John Courtenay III** whose voice telephone number is **(703) 308-5217.** A voice mail service is also available at this number. Normal Flex work schedule: M – F 7:30 AM - 4:00 PM

- **All responses sent by U.S. Mail should be mailed to:**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/faxnotice.pdf

Effective Oct. 15, 2003, ALL patent application correspondence transmitted by FAX must be directed to the new PTO central FAX number:

NEW PTO CENTRAL FAX NUMBER:
703-872-9306

- Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: (703) 305-3900.**

Please direct inquiries regarding fees, paper matching, and other issues not involving the Examiner to:
Technical Center 2100 CUSTOMER SERVICE: 703 306-5631

The Manual of Patent Examining Procedure (MPEP) is available online at:
http://www.uspto.gov/web/offices/pac/mpep/index.html

ST. JOHN COURTENAY III
PRIMARY EXAMINER